Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Petition of the	)	**DA 98-743**
Connecticut Department of Public	)	**RM No. 9258**
Utility Control for Rulemaking	)	

COMMENTS OF AT&T WIRELESS SERVICES, INC.

AT&T WIRELESS SERVICES, INC.

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AT&T Wireless Services, Inc. ("AT&T"), by its attorneys, hereby submits its comments on the Petition for Rulemaking ("Petition") filed by the Connecticut Department of Public Utility Control ("DPUC").[1]

INTRODUCTION AND SUMMARY

In its Petition, the DPUC asks the Commission to eliminate its policy prohibiting service-specific area code overlays so that it can segregate all wireless customers into a new area code. The DPUC argues that its proposal should be granted because, in its view, wireless and wireline providers do not compete and are not likely to do so in the future. In addition, the DPUC contends that a separate area code for wireless services would actually be useful if and when providers begin to implement calling party pays plans.

Neither of these rationales justify isolating wireless subscribers in the manner described by the DPUC. The DPUC's plan is on its face unjust and unreasonably discriminatory and thus would violate the Communications Act and prior Commission precedent. Moreover, such action would unfairly place the entire cost of number exhaust resolution on the wireless industry,

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[1] See Public Notice, Connecticut Department of Public Utility Control Files Petition for Rulemaking, Public Comment Invited, DA 98-743, RM No. 9258 (rel. April 17, 1998).

resulting in significant loss of goodwill and customers. If granted, the DPUC's proposal would be extremely adverse to commercial mobile radio services ("CMRS") providers and their subscribers as well as the public interest. The Commission has considered and rejected similar requests advanced by other states and the DPUC has not provided any new or compelling justification for the Commission to condone discrimination against the wireless industry. Accordingly, AT&T urges the Commission to deny the Petition promptly and to let other parties know that the filing of requests for wireless-only overlays is futile.

BACKGROUND

The FCC has repeatedly recognized that access to numbering resources is critical for entities seeking to provide telecommunications services. See, e.g., Administration of the North American Numbering Plan, Report and Order, 11 FCC Rcd 2588, 2591 (1995) ("NANP Order"); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19508 ¶ 261 (1996) ("Local Competition Second Report and Order"). In 1995, the FCC adopted broad policy objectives for the administration of the North American Numbering Plan ("NANP"). Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, 10 FCC Rcd 4596, 4604, ¶ 17 (1995) ("Ameritech Order"). The objectives the FCC adopted include: (1) making numbering resources available on an efficient and timely basis; (2) not unduly favoring one industry segment or group of consumers over another; and (3) not unduly favoring one technology over another. Id. at 4604 ¶ 18. The FCC reiterated these guidelines in the Local Competition Second Report and Order and stated that they should continue to guide states and other entities to ensure fair and impartial numbering administration. Local Competition Second Report and Order, 11 FCC Rcd. at 19516 ¶ 281.

The Telecommunications Act of 1996 ("1996 Act") added new section 251(e) to the Communications Act, eliminating any uncertainty about the FCC's exclusive authority over numbering administration. 47 U.S.C. § 251(e); Local Competition Second Report and Order, 11 FCC Rcd at 19404, 19520 ¶¶ 18, 292. Section 251(e) grants the FCC "exclusive authority" over those portions of the NANP that pertain to the United States, but does not preclude the FCC from delegating part or all of that authority to state commissions or other entities. 47 U.S.C. § 251(e). In the Local Competition Second Report and Order, the FCC concluded that it should "retain its authority to set policy with respect to all facets of numbering administration to ensure the creation of a nationwide, uniform system of numbering that is essential to the efficient delivery of interstate and international telecommunications services and to the development of a competitive telecommunications services market." Local Competition Second Report and Order, 11 FCC Rcd at 19405 ¶ 19.

The FCC has delegated to the states the limited authority to resolve matters that involve the implementation of new area codes because of their unique understanding of local conditions and the effect of new area codes on those conditions. Id. at 19512 ¶ 272. This delegation is subject, however, to the states' compliance with the FCC's numbering administration guidelines. Id.

States have significant latitude to implement area code relief plans. When numbers are exhausted, new area codes are needed and there are basically three options available to provide relief: (1) a geographic split, in which the geographic area using the existing area code is split into two parts and half of the customers in the area continue to be served through the old area code while half must change to a new area code, (2) rearrangement, where the state simply rearranges existing area code boundaries to accommodate local needs, or (3) an area code

overlay, in which the new area code covers the same geographic area as an existing area code and customers in the area may be served through either code. Id. at 19513 ¶ 273.

The FCC has concluded unequivocally that any overlay that segregates particular types of telecommunications services or technologies into discrete area codes is unreasonably discriminatory and unduly inhibits competition. Id. at 19518 ¶ 285. This decision builds upon the FCC's Ameritech Order, in which the FCC rejected Ameritech's proposed wireless-only overlay because it would unreasonably discriminate against wireless carriers. Ameritech Order 10 FCC Rcd at 4604 ¶ 20.[2/]

The FCC found that three aspects of Ameritech's plan violated section 202(a)'s prohibition against unjust or unreasonable discrimination, as well as section 201(b)'s prohibition against unjust and unreasonable practices. The objectionable aspects were: (1) the proposal to continue assigning the old 708 codes to wireline carriers while excluding wireless carriers from such assignments ("exclusion"); (2) the proposal to require only wireless carriers to take back the 708 telephone numbers from their subscribers and return those numbers to Ameritech ("take back"); and (3) the proposal to assign all numbers from the new area code to wireless carriers exclusively ("segregation"). Id. at 4607-4608 ¶ 26. The FCC found that the exclusion, segregation, and take back proposals would all confer significant competitive advantages on wireline companies, while placing wireless carriers at a distinct disadvantage. Id. at 4608 ¶ 27.

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[2] Ameritech proposed to stop providing central office ("CO") codes within area code 708 to wireless providers and require these carriers would give back CO codes within area code 708 that were currently assigned to them. Ameritech Order, 10 FCC Rcd 4598 ¶ 3. Wireless customers would also have had to surrender telephone numbers assigned to them that were served using these CO codes. Id. The remaining CO codes in the 708 area code would be used by Ameritech to assign numbers to its own customers, competitive access providers, and other wireline carriers, while numbers from a new area code eventually would be assigned to wireless carriers. Id. at 4598 ¶ 4.

The FCC also stated that the three proposals would disproportionately burden wireless carriers and their customers because wireless subscribers would have to surrender existing numbers, reprogram their equipment, change to new numbers, and inform callers of the change. Id.[3] The FCC concluded that Ameritech's proposed wireless-only overlay would unreasonably discriminate against wireless carriers, in violation of the principle of technological neutrality, and would thwart the FCC's goals of seeking to encourage new services and introduce additional competition in the provision of services. Id. at 4604-4605 ¶ 20.

In the Local Competition Second Report and Order, the Commission again rejected a proposed wireless only overlay plan. The Commission concluded that the Texas Public Utilities Commission's ("Texas PUC's") proposal violated the Ameritech Order on its face and was inconsistent with the Commission's reaffirmed position that wireless-only overlays are unlawful. Local Competition Second Report and Order, 11 FCC Rcd at 19527 ¶ 304. The FCC found that the Texas PUC's justifications for the wireless-only overlay -- that it would extend the life span for the area code relief plan and reduce confusion -- were unpersuasive. Id. at 19528 ¶ 306.

Although the Commission permits overlays as one relief method, it has placed three conditions on the establishment of the overlay. First, overlays cannot be implemented unless "all central office codes in the new overlay area code are assigned to those entities requesting assignment on a first-come, first serve basis, regardless of the identity of, technology used by, or type of service provided by the entity." 47 CFR § 52.19(c)(3)(i). Second, states must make available to every existing telecommunications carrier, including CMRS providers, at least one

[3] In the Local Competition Second Report and Order, 11 FCC Rcd at 19527 ¶ 305, the FCC affirmed that the presence of a take back proposal in a service-specific plan renders that plan "unacceptable and violative of the Communications Act."

NXX in the existing area code, to be assigned during the 90-day period preceding the introduction of the overlay. Local Competition Second Report and Order, 11 FCC Rcd at 19518, 19519 ¶¶ 286, 288; 47 CFR §52.19(c)(3)(iii). Third, when an all-services overlay plan is implemented, ten-digit local dialing must be used by all carriers between and within the codes in the area covered by the overlay. See Local Competition Second Report and Order, 11 FCC Rcd at 19518-19519 ¶¶ 286-87; 47 CFR § 52.19(c)(3)(ii).

The Commission's adopted the ten-digit dialing mandate because the Texas PUC's plan raised concerns about dialing disparity. Id. at 19528 ¶ 307. Local dialing disparity occurs when one group of telephone users remains in an old area code and dials seven digits within that area code and ten digits to the new area code. In addition, new users with the overlay code would have to dial ten digits in order to reach customers in the old area code. Id. at 19518 ¶ 287. When a new overlay code is assigned, there could be as many as eight million numbers assigned in the old area code, compared to just a few thousand customers using the new overlay area code. Id. Most calls would therefore be made to the numbers in the old area code, creating dialing disparity for those in the new code. Id. at 19518-19519. This in turn, according to the FCC , would discourage customers from switching to new or wireless carriers.

Despite the Commission's unequivocal and repeated rejection of wireless-only overlays, the Connecticut DPUC asks the Commission to grant it authority to implement just such a plan. The DPUC's proposal involves exclusion (continued assignment of the old codes to wireline carriers while excluding wireless carriers from such assignments), take back (requiring only wireless carriers to return numbers in the old code), and segregation (assigning all numbers from the new area code to wireless carriers exclusively). In addition, the DPUC states that intra-NPA calls would continue to require only seven digits, raising serious issues of dialing disparity. The

Commission should once again reaffirm its well-founded policies against service-specific overlays and send a strong message such requests will no longer be entertained.

I. A WIRELESS-ONLY OVERLAY IS INCONSISTENT WITH THE COMMUNICATIONS ACT AND COMMISSION POLICIES

The Commission's existing policies against exclusion, segregation, and take backs did not arise out of thin air. Rather, they derive from explicit provisions in the Communications Act. As noted above, the Commission's Ameritech Order was based on the fact that Ameritech's plan violated section 202(a)'s prohibition against unjust or unreasonable discrimination and section 201(b)'s prohibition against unjust and unreasonable practices. 47 U.S.C. §§ 201(b), 202(a). Like Ameritech and the Texas PUC, the DPUC has not established how a wireless-only overlay is not unreasonably discriminatory under section 202.

Nor has the DPUC explained how its plan would satisfy the 1996 Act's requirements of dialing parity and that the Commission ensure that telephone numbers are available to all telecommunications providers "on an equitable basis." See 47 U.S.C. §§ 153(39), 251(b)(3), 251(e)(1). If a wireless-only overlay were implemented, wireless customers would not have equitable access to what the Commission itself has recognized would be the more "desirable" numbers -- those in the existing area code.[4] In fact, they would have no access to such numbers. Similarly, the service-specific overlay proposed by the DPUC would result in dialing disparity because calls to and from the new code would require ten digits while the calls within the old code could be placed using only seven digits. As the Commission has noted, this would make it considerably harder for wireless providers to attract and retain customers.

[4] See id. at 19519 ¶ 288.

The Commission should not lightly abandon its long-held policies that advance competition and consumer interests. In a recent speech to the Cellular Telecommunications Industry Association, Chairman Kennard reaffirmed the importance of equitable numbering policies, stating that "[a]nother competitive imperative is to make sure that we have technology-neutral allocation of network resources. This means avoiding number exhaustion, [and] avoiding overlay plans that aren't competitively neutral." Wireless providers have as much to lose as other segments of the telecommunications industry by number exhaustion and are willing to do their fair share in helping states establish and implement reasonable long-term policies. Placing the entire burden of number exhaust resolution on the wireless industry, however, violates the Communications Act and would require the Commission to reverse its well-supported policies against discrimination. Such a result would not be legally supportable.

II. A WIRELESS-ONLY OVERLAY WOULD HAVE FAR MORE NEGATIVE EFFECTS ON CUSTOMERS AND PROVIDERS THAN OTHER AVAILABLE RELIEF METHODS

In its effort to find a solution to difficult number exhaust problems, the DPUC completely ignores the seriously adverse impacts a wireless-only overlay and number take-back would have on both customers and providers. Contrary to the DPUC's dismissive analysis, a wireless overlay would cause the highest costs, the most customer confusion, disruption and inconvenience, and the longest delays in implementation of any possible code relief method available to the states.

Most importantly, unlike wireline telephones, wireless handsets would have to be reprogrammed if the state mandates a new telephone number. While some handsets are capable of remote reprogramming, for many wireless phones, the new mobile identification number must be programmed directly into the phone's microchip. This often requires a special programming

device and onsite service. In other words, customers would have to take time out of their busy schedules to bring their handsets into an AT&T customer service center that has the necessary equipment. If the phone is customer programmable, the customer must call in and be able to follow instructions for programming via the keypad. If, at the end of a permissive dialing period, a customer had failed to reprogram his or her handset, service would be cut off completely.

As the Commission also has found, the dialing disparity inherent in a wireless-only overlay would cause unnecessary customer confusion and discrimination. See Local Competition Second Report and Order, 11 FCC Rcd 19528 ¶ 306. With an all-services overlay, all customers would be required to dial ten digits for all calls, regardless of whether the caller or recipient is a wireless or wireline customer. With a geographic split, all calls within the same geographic area are seven digits and calls to points outside the area are ten digits. Significantly, in the context of a geographic split, all callers (regardless of the technology that they use) make approximately the same number of seven and ten digit calls. Under the DPUC's proposal, however, how many digits a caller has to dial is technology dependent, with wireless callers having to make far more ten digit calls, than wireline customers, placing the wireless carriers at a significant competitive disadvantage. This competitive disadvantage and customer confusion may well be exacerbated when wireless customers are given the option of subscribing to calling party pays service because callers may simply assume that they will be charged for all calls to the wireless NPA.

The inconveniences caused by reprogramming and associated changes translate into enormous costs for the wireless industry. The costs of reprogramming handsets and making necessary network and switch changes alone would be millions of dollars, and this figure does not take into account the loss of goodwill and customers that wireless providers would suffer.

For those customers who failed to reprogram their handsets prior to the expiration of the permissive dialing period, no calls could be made or received. Many subscribers may simply choose to give up wireless service altogether rather than take the steps necessary to keep their accounts active. In addition, wireline PBX operators may not be as quick to reprogram their equipment to acknowledge new wireless numbers as they would if a new area code were applied to all services. The DPUC has not only failed to propose a cost recovery mechanism for the hard dollars to be expended by the wireless industry, it has not taken into account whatsoever the effect its proposal would have on the ability of wireless providers to gain and retain subscribers.

As discussed below, the wireless industry is not a major contributor to number exhaust. Therefore, any solution that involves segregating wireless customers into a new area code is unlikely to conserve an existing area code for as long as an all-services overlay and is grossly unfair. While the DPUC may consider a wireless-only overlay to be more politically expedient at this point,[5] the enormous costs and adverse impacts on competition far outweigh any benefits that might be garnered by this decision.

III. THE DPUC'S REASONS FOR ISOLATING WIRELESS CUSTOMERS ARE UNPERSUASIVE

The DPUC has advanced two justifications for the Commission to depart from its firm and repeated admonition that wireless-only overlays are impermissible. First, the DPUC asserts that there is no competition between the wireless and wireline industries and that it does not

[5] The DPUC provides no support for its contention that "Connecticut consumers have spoken for implementation of a service specific overlay" and AT&T is unaware of significant support for such a proposal in the state. See Petition at 6. No area code relief plan is going to be popular with all users but, as the DPUC acknowledges, "[a]rea code relief is necessary." Id. Therefore, before the situation worsens, the DPUC should implement a lawful and competitively neutral solution.

believe that such competition will ever develop. Second, the DPUC argues that a wireless-only overlay would actually benefit customers because it would alert them that they are calling a wireless number in a calling party pays ("CPP") regime. Neither of these arguments is persuasive.

Contrary to the DPUC's unsupported conclusions, competition is developing between the wireless and wireline industries. The Commission has for years been adopting policies aimed specifically at encouraging the use of alternative technologies, particularly wireless, for local loop service.[6] Although wireless services do not currently constrain incumbent wireline providers' market power in any way, the Commission repeatedly has recognized that "broadband CMRS providers potentially will compete in the future with wireline carriers,"[7] and has sought to ensure that its regulatory regime encourages that result. In its recent BellSouth Louisiana Order, for example, the Commission found that "PCS providers appear to be positioning their service offerings to become competitive with wireline service, but they are still in the process of making the transition 'from a complementary telecommunications service to a competitive equivalent to wireline services.'"[8]

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[6] See, e.g., Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, WT Docket No. 96-6, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8965, 8977 (1996).

[7] Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd. 8352, 8443 (1996); see also, e.g., Telephone Number Portability, First Memorandum Opinion and Order On Reconsideration , 12 FCC Rcd 7236, 7313 (1997) ("[R]equiring cellular, broadband PCS, and covered SMR providers to provide number portability is in the public interest because these entities are expected to compete in the local exchange market.") (emphasis added).

[8] Application by BellSouth Corporation, *et al.* Pursuant to Section 271 of the Telecommunications Act of 1934, as Amended, to Provide In-Region, InterLATA Services in Louisiana, CC Docket No. 97-231, Memorandum Opinion and Order, FCC 98-17, at ¶ 73 (rel.

It would be directly contrary to its own broad policy objectives for the Commission to permit crucial numbering decisions to be made on the basis of the type of technology used by the provider.[9] The Commission has long sought to encourage competition between wireless and wireline services in order to promote innovation, lower prices, and consumer choice.[10] Ultimately, wireless and wireline technologies may converge to the point where many customers will have one telephone and one number to serve both their mobile and fixed services needs. Adoption of the DPUC's proposals, however, would substantially impede these potential competitive developments. Future customers searching for an alternative to their incumbent LEC would be much less likely to choose a wireless service if such a choice would entail a move to a less desirable area code and the imposition of ten-digit dialing (when wireline companies could offer seven-digit dialing).

February 4, 1998) (quoting Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, WT 97-14, Second Report, FCC 97-75, at 55-56 (rel. March 25, 1997)).

[9] There is no basis for the DPUC's conclusion that unless services are subject to identical regulation, they can never be deemed competitors. Congress has determined that because of the federal nature of CMRS services and licensing, state rate and entry regulations are inappropriate. In this regard, the fact that the Commission has provided different dates for wireless and wireline implementation of local number portability ("LNP") has nothing to do with whether competition will develop between the services. See Petition at 9-10. Rather, it only means that the FCC properly recognized that technological differences necessitated a longer lead time for wireless LNP. This has no bearing on competition, except to the extent that it shows that the Commission wants and expects the two industries to begin competing in the future, and therefore ordered that it be possible to port numbers between wireless and wireline.

[10] See, e.g., Telephone Number Portability, First Memorandum Opinion and Order On Reconsideration , 12 FCC Rcd 7236, 7313 (1997) ("[N]umber portability will enhance competition among wireless service providers, as well as between wireless service providers and wireline service providers. . . . . Removing barriers, such as the requirement that customers must change phone numbers when changing providers, is likely to foster the development of new services and create incentives for carriers to lower prices and costs.")

The DPUC also fails to acknowledge that if a wireless-only overlay is allowed today, there will be no practical way to integrate numbering for wireless and wireline when competition does eventually develop. Although the DPUC suggests that valid reasons to prohibit wireless overlays could "materialize" later when the services are competing head-to-head, [11] adoption of the DPUC's discriminatory proposal would create conditions that would help ensure that competition will not in fact "materialize" in the first place. The Commission should not allow development of competition between wireless and wireline services to be stymied by arbitrary state-by-state numbering decisions. Such an outcome would harm consumers and providers and undermine the public interest.

Even assuming that the DPUC were correct that competition will not develop between wireless and wireline services, its conclusion that a wireless-only overlay would be consistent with Commission policy is untenable. While the Commission based its decision in the Ameritech Order in large part on the competitive advantages that would be enjoyed by wireline providers, it also noted that exclusion, segregation, and take backs would unfairly burden wireless carriers and their customers because wireless subscribers would have to surrender existing numbers, reprogram their equipment, change to new numbers, and inform callers of the change. Ameritech Order, 10 FCC Rcd at 4608 ¶ 27. Accordingly, regardless of the current level of competition between industry segments, the Commission has recognized that placing the costs of number conservation only on wireless providers would be unreasonable, and would not comport with section 251(e)(2)'s mandate that "cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all

[11] Petition at 10 ("until competition has been determined to exist . . . concern of anticompetitive effects arising from a service specific overlay should not materialize").

telecommunications carriers on a competitively neutral basis." 47 U.S.C. § 251(e)(2) (emphasis added).

There is even less foundation for the DPUC's argument that the offering of CPP renders area code discrimination acceptable. First, if and when it is implemented on a wide-scale basis, CPP will simply be an option for wireless customers and many of them will not to choose to exercise it. Therefore, establishing a separate area code for wireless customers would not eliminate the need to alert calling parties that they will have to pay for a call. In fact, a separate area code could actually create more confusion as some customers may then assume that they must pay for all calls made to wireless numbers.

Moreover, a number of carriers are considering alternative approaches to CPP, such as the use of "one number" or personal number solutions based on service access codes (e.g., 500, 700) or on intelligent network architectures. AT&T, for example, is conducting a market trial of a new CPP service using 500 numbers in Minnesota. The switch through which the 500 call is routed will play a CPP announcement for the calling party that notifies him or her that if the call is connected, there will be charge. Because a 500 number instead of the subscriber's handset number is used to provide CPP, the DPUC's suggestion that a wireless-only area code is necessary to warn callers of potential charges is misplaced.

While AT&T understands the DPUC's need to find a way out of the thorny dilemmas presented by numbering resource problems, requiring the wireless industry to shoulder the entire burden of a purported solution is not the proper course as a policy matter -- and is, moreover, flatly prohibited by Section 251(e)(2). This is especially the case given that wireless providers contribute significantly less to number exhaust than other carriers. For example, an analysis of recent Local Exchange Routing Guide assignments of NXXs in the two Connecticut NPAs in

question show that wireless carriers hold only 10-14 percent of the NXX codes in these NPAs. This is because wireless carriers typically use NXXs over a wider geographic area than wireline providers and thus do not need codes in every rate center. In contrast, as the DPUC notes, the potential exhaust of the Connecticut area codes is attributable to increased competition that has "forc[ed] the opening of new NXXs for every new provider for every rate center." Petition at 2 (emphasis added). The DPUC's petition presents nothing that suggests that the Commission should revisit the conclusions of the Local Competition Second Report and Order. .[12]

IV. GRANT OF THE DPUC'S REQUEST WOULD UNDERMINE THE NATIONWIDE SYSTEM OF NUMBERING ADMINISTRATION ENVISIONED BY CONGRESS

Congress has established, and the Commission has wisely implemented, a nationwide system of numbering administration. While states are given considerable discretion to determine the type of area code relief plan that best suits their needs, as well as how such plans will be implemented (e.g., the length of the permissive dialing period, the process for telephone number changes, and the extent of customer education campaigns), the Commission has set forth basic guidelines that must be followed in every state. These include: (1) making numbering resources available on an efficient and timely basis; (2) not unduly favoring one industry segment or group of consumers over another; and (3) not unduly favoring one technology over another. Ameritech Order, 10 FCC Rcd at 4604 ¶ 18. See also Local Competition Second Report and Order, 11 FCC

[12] The Commission should urge states to develop area code policies that are non-discriminatory and encourage competition. For example, rate center consolidation would help significantly in conserving existing codes. While the DPUC has made some headway by reducing the number of SNET rate centers from 115 to 86, there is still much to be done in this regard. See Petition at 2. In light of the requirement that each new CLEC obtain a full number block in almost every rate center to compete adequately in Connecticut, there is little question about where all the numbers have gone.

Rcd at 19516-19517 ¶ 281. The DPUC now asks the Commission to abandon its policies in favor of unconstrained state-by-state numbering administration.

As a threshold matter, the DPUC has not pointed, and cannot point, to any changed circumstances since these guidelines were developed or reaffirmed that would warrant such action by the Commission. Nor has the DPUC shown, or can it show, that circumstances are so different from state to state that national guidelines are inappropriate. To the contrary, only with federal numbering administration can the Commission fulfill Congress's main objective of ensuring access to numbers by all competitors on a timely and equitable basis.

In light of this background, the Commission must be aware that its resolution of the instant rulemaking request will have broad implications. First, if the Commission were to indicate that it would consider revising its guidelines at this juncture, all area code relief efforts would essentially come to a standstill. Already, the process of area code relief is expensive, contentious, and time consuming. It would be even more burdensome without the Commission's guidelines to give structure to the process.

Moreover, grant of the DPUC's Petition and commencement of a rulemaking proceeding would likely provoke similar requests from other parties. A number of other states have indicated that they are interested in the wireless-only overlay concept and would presumably await the outcome of the rulemaking before proceeding with their currently active relief plans. Similarly, some states have attacked the Commission's ten-digit dialing mandate and would view the issuance of a notice of proposed rulemaking as an indication that the Commission will give them more flexibility. In the meantime, number resources would become more and more scarce and competition would be adversely impacted.

Wireless providers should not have to waste their resources attempting to head off such catastrophes on a state-by-state basis. Instead of floating proposals that are unacceptable from the outset, states should concentrate their efforts on dealing with number exhaust in a realistic and equitable manner. This will only happen if the Commission makes it plain that it will no longer entertain requests for relief plans that do not comport with its basic policies. The Commission should decline to commence a rulemaking proceeding and instead should encourage states to develop competitively neutral, long-term solutions to numbering resource issues consistent with the national guidelines.

CONCLUSION

While each state is facing its own political hurdles, the Commission should not be swayed by promises of an easy way out. Isolating wireless customers into a new area code would violate the Communications Act, discriminate unfairly and unnecessarily based on technology, and undermine the public interest. AT&T urges the Commission to deny the DPUC's Petition and to let other states know that similar proposals will also be met with rejection.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Tanya T. Butler, hereby certify that a copy of the foregoing "Comments of AT&T Wireless Services, Inc." were filed by first class-postage prepaid mail, or by hand(*) on this 7th day of May, 1998 to the following:

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